

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CAROLINE CLARK,

Plaintiff,

V.,

AUSTIN MONTESSORI SCHOOL, INC.,

Defendant.

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C.A. NO. A-12-CV-007-SS

**DEFENDANT'S SECOND AMENDED DESIGNATION OF POTENTIAL WITNESSES,
TESTIFYING EXPERTS, AND PROPOSED EXHIBITS**

To: CAROLINE CLARK, PLAINTIFF
By and through her attorneys of record,
Russell Scott Cook
Melissa Jacobs
THE COOK LAW FIRM
919 Congress Avenue, Suite 1145
Austin, Texas 78701

Defendant, Austin Montessori School, Inc., hereby submits its Second Amended
Designation of Potential Witnesses, Testifying Experts, and Proposed Exhibits.

Respectfully submitted,

/s/ Bryan P. Marshall

Stephanie O'Rourke
State Bar No. 15310800
Bryan P. Marshall
State Bar No. 24034552
COKINOS, BOSIEN & YOUNG
10999 IH 10 West, Suite 800
San Antonio, Texas 78230
T 210-293-8700
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

On July 31, 2012, I electronically submitted the foregoing DEFENDANT'S SECOND AMENDED DESIGNATION OF POTENTIAL WITNESSES, TESTIFYING EXPERTS, AND PROPOSED EXHIBITS with the clerk of court for the U.S. District Court, Western District of Texas and counsel of record, using the electronic case files system of the Court.

ATTORNEYS FOR PLAINTIFF

Russell Scott Cook
Melissa A. Jacobs
THE COOK LAW FIRM
919 Congress Avenue, Suite 1145
Austin, Texas 78701

/s/ Bryan P. Marshall
Bryan P. Marshall

**DEFENDANT'S SECOND AMENDED DESIGNATION OF POTENTIAL WITNESSES,
TESTIFYING EXPERTS, AND PROPOSED EXHIBITS**

POTENTIAL WITNESSES

Defendant, Austin Montessori School, Inc. may call any or all of the following individuals to testify at trial:

1. Austin Montessori School, Inc.
And/or Its Representatives
c/o Stephanie O'Rourke
and Bryan Marshall
Cokinos, Bosien & Young
10999 IH-10 West, Suite 800
San Antonio, Texas 78230
(210) 293-8700
Defendant.
2. Joseph Aken, Guide
Kadie Beasley, Guide
Donald C. Goertz, Executive Director
Donna Bryant Goertz, Founder
Dawn Glasgow, Administrative Executive
Amber Miller, Director of Admissions
Lois O'Brien, Office Manager
Jerry Pippins, Maintenance
Margarita Ruiz, Guide
Elizabeth Suggs, Campus Coordinator
Austin Montessori School, Inc.
c/o Stephanie O'Rourke
and Bryan Marshall
Cokinos, Bosien & Young
10999 IH-10 West, Suite 800
San Antonio, Texas 78230
(210) 293-8700
Employees of AMS
3. Caroline Clark
c/o Russell Scott Cook
Melissa A. Jacobs
THE COOK LAW FIRM

919 Congress Avenue, Suite 1145
Austin, Texas 78701
(512) 482-9556
Plaintiff.

4. Barbara Weiss
Address and telephone number unknown
Independent contractor. Fundraising event manager.
5. Calvin Carter
6303 Waynesburg Cove
Austin, Texas 78723
Independent contractor. Janitor.
6. Charlotte Kroger
10207 Colonial Club Drive
Austin, Texas 78747
Independent contractor. Montessori consultant.
7. Cleotilde Maldonado
Address and telephone number unknown
Independent contractor. Janitor.
8. Donald Porter
Address and telephone number unknown
Independent contractor. IT support.
9. Francisca Tejeda
Address and telephone number unknown
Independent contractor. Janitor
10. Leslie Grove
3311-B Hampton Road
Austin, Texas 78705
Independent contractor. Licensed therapist.
11. Miguel Reyes
Address and telephone number unknown
Independent contractor. Janitor.
12. Patricia Oriti
4321 36th Avenue Court Northwest

Gig Harbor, Washington 98335
Independent contractor. Montessori consultant.

13. Paula McDermott
Address and telephone number unknown Independent contractor. Spanish consultant.
14. Lucinda Castillo
2607 Cebo Cove
Austin, Texas 78745
Independent contractor for AMS. Shuttle bus driver.
15. Sheilah Murphy
4301 Sinclair Avenue
Austin, Texas 78756
Independent contractor. Special lesson instructor.
16. Janna Banks
Address and telephone number unknown
Former employee of AMS.
17. Tiffany Goodman Bilbe
Address and telephone number unknown
Former employee of AMS
18. Adam Clark
11835 Leisure Drive
Dallas, Texas 75243
Telephone number unknown
Plaintiff's spouse.
19. Angela Eagle
Address and telephone number unknown
Former employee of AMS
20. Debbie Ebner
Address unknown
(512) 906-4754
Parent of student at AMS
21. Janice Kearly
Address and telephone number unknown

Parent of student at AMS

22. Rachel Mast
Address unknown
(512) 751-5126
Parent of student at AMS
23. Sean Mast
Address unknown
(512) 751-5126
Parent of Student at AMS
24. Maria Quiroga
School Director
East Dallas Community Schools
and/or their Custodian of Records
924 Wayne Street
Dallas, Texas 75223-1675
(214) 824-8950
Plaintiff's former and current employer.
25. Donna Romine
Address and telephone number unknown
Former employee of AMS
26. Elizabeth Soto
Address and telephone number unknown
Former employee of AMS
27. Jose Colon-Franqui, Supervisor
Rebecca Davies, Investigator Support Assistant
Pedro Esquivel, Director
Robert Gomez
Travis Hicks, Enforcement Manager
Katherine S. Perez, ADR Coordinator
Sheila Ward-Reyes, Investigator
U.S. Equal Employment Opportunity Commission
San Antonio Field Office
and/or their Custodian of Records
5410 Fredericksburg Road, Suite 200
San Antonio, Texas 78229-3555
(210) 281-7641

Employees and entity that investigated plaintiff's EEOC charge.

28. Texas Workforce Commission
Civil Rights Division
and/or its Custodian of Records
101 East 15th Street
Austin, Texas 78778
(512) 463-2642
Entity that investigated plaintiff's EEOC charge.

TESTIFYING EXPERTS

Defendant, Austin Montessori School, Inc., designates the following individual as a Testifying Expert to testify at trial:

1. Stephanie O'Rourke
Cokinos, Bosien & Young
10999 West IH-10, Suite 800
San Antonio, Texas 78230-1349
(210) 293-8700

Ms. O'Rourke is a principal in the law firm of Cokinos, Bosien & Young, counsel of record for Defendant, Austin Montessori School, Inc., and will offer opinions as to the reasonableness and/or necessity of the attorneys' fees and/or litigation costs incurred by Austin Montessori School, Inc. in connection with this action. In addition, Ms. O'Rourke will testify as to whether the attorneys' fees of counsel for Plaintiff, Caroline Clark, are reasonable and/or necessary. Upon receipt of Plaintiff's attorneys' fees, Ms. O'Rourke will supplement her opinion as to the work performed and whether the fees meet the requirements set forth in the Fifth Circuit's opinion. Premised upon the facts known to date, \$400.00 is not a reasonable fee in this matter. Further, Plaintiff has failed to meet the lodestar requirements.

PROPOSED EXHIBITS

Defendant, Austin Montessori School, Inc. may offer as evidence at trial any or all of the following proposed exhibits:

1. Any and all documents produced by Defendant (Bates-labeled documents AMS 000001-001207).
2. U.S. Equal Employment Opportunity Commission ("EEOC") Investigative File.
3. Any and all documents produced by Plaintiff.

Defendant reserves the right to amend its list of Proposed Exhibits. Defendant further

reserves the right to introduce at trial any documents produced by Plaintiff or Defendant in this matter.

Defendant may also call as expert witnesses any and all expert witnesses who have been, or may be designated, after this designation, by any party to this lawsuit and hereby cross-designates any such witness without admitting to the qualifications of said witness.

Certain individuals have been identified in the course of discovery in this lawsuit as persons with knowledge of relevant facts regarding the matters made the basis of this lawsuit. Should any of those individuals qualify as an expert or express opinions which may qualify as expert opinions, Defendant reserves the right to call those individuals as expert witnesses.

Defendant reserves the right to supplement this designation as allowed by the Court, by agreement of the parties, or pursuant to the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

Defendant reserves the right to cross-examine any other party's designated expert witnesses and to seek opinions from them without agreeing or vouching for any or all opinions such persons may have.

Defendant reserves the right to designate and file, with the Court's permission, any other expert(s) report(s) as they are made available.

Defendant reserves the right to elicit expert testimony from fact witnesses to the extent they are ruled to have relevant testimony to issues pertaining to this cause of action.

Defendant reserves the right to seek factual testimony from expert witnesses to the extent to which they may have any knowledge of relevant facts.

Defendant reserves the right to call un-designated, rebuttal expert witnesses whose testimony cannot reasonably be foreseen until the presentation of evidence at trial.

Defendant also reserves the right to withdraw the designation of any expert witness and to aver positively that any such previously designated expert witnesses will not be called as a witness at trial.

Defendant also designates as persons with knowledge of relevant facts, all those persons designated as an expert by any party to this cause of action.

Defendant hereby expressly designates as fact and expert witnesses all witnesses, both fact and expert, to be designated by other parties to this lawsuit. By designating as their own expert and fact witnesses those witnesses designated by other parties to this lawsuit, Defendant

reserves, and does not waive its rights to challenge the qualifications or the relevance or reliability of those opinions or any other basis for objecting to the admissibility of those expert and fact witnesses.

Defendant reserves the right to amend and/or supplement its Designation of Potential Witnesses and Testifying Experts in the event it learns through discovery that additional witnesses and experts are necessary.